

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 25485A Permit 18289A License _____

**ORDER APPROVING A NEW DEVELOPMENT SCHEDULE, CHANGES TO
POINTS OF DIVERSION, REDISTRIBUTION OF STORAGE, PLACE OF USE,
AND AMENDING THE PERMIT**

WHEREAS:

1. Permit 18289A was issued to Heublein, Inc. on June 11, 1981, subsequently assigned to Oakville Winery Acquisition Group pursuant to Application 25485A.
2. A petition to change from two existing points of diversion to one new point of diversion within which to develop the project and apply the water to the proposed use has been filed with the State Water Resources Control Board (SWRCB).
3. A petition to change the distribution of water collected to storage from a single offstream reservoir to storage within two offstream reservoirs has been filed with the SWRCB.
4. A petition to change the place of use by consolidating 75 acres of vineyard and offstream storage reservoirs described in total under both petitioned permits and field investigation done on August 2, 1994.
5. The SWRCB has determined that the petition to changes do not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
6. The permittee has proceeded with diligence and good cause has been shown for said changes.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Condition 8 of the permit be amended to read:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 31, 2002

(0000008)

2. Condition 9 of the permit be amended to read:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 31, 2007

(0000009)

3. Condition 2 of the permit be amended to read:

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
		*			
<u>POINT OF DIVERSION TO OFFSTREAM STORAGE</u> North 1,700 feet and West 400 feet from SW corner of projected Section 23	NE¼ of SE¼	22	7N	5W	MD

* projected


(0000002)

4. Conditions 3 and 4 of the permit be amended to read:

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
		*				
	<u>OFFSTREAM STORAGE RESERVOIR NO. 1</u> within NE¼ of SE¼	22	7N	5W	MD	
	<u>OFFSTREAM STORAGE RESERVOIR NO. 2</u> within NW¼ of NE¼	27	7N	5W	MD	
Frost Protection; Heat Protection; & Irrigation	SE¼ of SE¼	22	7N	5W	MD	30
	SW¼ of SE¼	22	7N	5W	MD	25
	NE¼ of SE¼	22	7N	5W	MD	7
	NE¼ of NE¼	27	7N	5W	MD	2
	NW¼ of NE¼	27	7N	5W	MD	11
					TOTAL	75

* projected

Dated: **FEBRUARY 18 1997**


Edward C. Anton, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 25485A

PERMIT 18289A

LICENSE _____

ORDER APPROVING A NEW DEVELOPMENT SCHEDULE
AND AMENDING THE PERMIT

WHEREAS:

1. A petition for extension of time within which to develop the project and apply the water to the proposed use and place of use has been filed with the State Water Resources Control Board.
2. The permittee has proceeded with diligence and good cause has been shown for extension of time.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Paragraph 8 of the permit is amended to read as follows:

CONSTRUCTION WORK SHALL BE
COMPLETED ON OR BEFORE

December 1, 1990

2. Paragraph 9 of the permit is amended to read as follows:

COMPLETE APPLICATION OF THE
WATER TO THE PROPOSED USE
SHALL BE MADE ON OR BEFORE

December 1, 1991

3. Paragraph 12 of this permit is deleted. A new paragraph 12 is added as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of

this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

Dated: AUGUST 11 1986

L. D. Johnson
for Raymond Walsh, Chief
Division of Water Rights

STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 18289A

Application 25485A of HEUBLEIN, INC.

over

C/O NAPA VALLEY VINEYARD COMPANY, P. O. BOX 403, RUTHERFORD, CALIFORNIA 94573

filed on AUGUST 22, 1977, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

NAPA RIVER

SAN PABLO BAY

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
<u>DIVERSION TO OFFSTREAM STORAGE</u>					
<u>NORTH 8°00'WEST, 1,540 FEET FROM SE CORNER OF PROJECTED SECTION 22</u>	<u>NE1/4 OF SE1/4</u>	<u>22</u>	<u>7N</u>	<u>5W</u>	<u>MD</u>
<u>STORAGE</u>					
<u>HV #1 RESERVOIR IN</u>	<u>E1/2 OF SE1/4</u>	<u>22</u>	<u>7N</u>	<u>5W</u>	<u>MD</u>

County of NAPA

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
<u>FROST PROTECTION</u>						
<u>HEAT PROTECTION</u>						
<u>IRRIGATION</u>	<u>NE1/4 OF NE1/4</u>	<u>27</u>	<u>7N</u>	<u>5W</u>	<u>MD</u>	<u>1</u>
	<u>NW1/4 OF NE1/4</u>	<u>27</u>	<u>7N</u>	<u>5W</u>	<u>MD</u>	<u>14</u>
	<u>SW1/4 OF SE1/4</u>	<u>22</u>	<u>7N</u>	<u>5W</u>	<u>MD</u>	<u>3</u>
	<u>SE1/4 OF SE1/4</u>	<u>22</u>	<u>7N</u>	<u>5W</u>	<u>MD</u>	<u>17</u>
					<u>TOTAL</u>	<u>35</u>

The place of use is shown on map filed with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 35 ACRE-Feet per annum to be collected from November 1 of each year to May 15 of the succeeding year.

THIS PERMIT DOES NOT AUTHORIZE COLLECTION OF WATER TO STORAGE OUTSIDE OF THE SPECIFIED SEASON TO OFFSET EVAPORATION AND SEEPAGE LOSSES OR FOR ANY OTHER PURPOSE.

THE MAXIMUM RATE OF DIVERSION TO OFFSTREAM STORAGE SHALL NOT EXCEED 2.0 CUBIC FEET PER SECOND. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Actual construction work shall begin on or before two years from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked. (0000007)

8. Said construction work shall be completed on or before DECEMBER 1, 1984. (0000008)

9. Complete application of the water to the proposed use shall be made on or before DECEMBER 1, 1985. (0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued. (0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

12. Pursuant to California Water Code Sections 100 and 275, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to minimizing waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement such programs as (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000012)

14. THE STATE WATER RESOURCES CONTROL BOARD RESERVES JURISDICTION OVER THIS PERMIT TO IMPOSE ANY APPROPRIATE CONDITIONS AT SOME FUTURE DATE TO CONFORM THE PERMIT TO BOARD POLICY ON USE OF WATER FOR FROST PROTECTION. ACTION BY THE BOARD WILL BE TAKEN ONLY AFTER NOTICE TO INTERESTED PARTIES AND OPPORTUNITY FOR HEARING. (0000020)

15. IN ACCORDANCE WITH SECTION 1601, 1603, AND/OR SECTION 6100 OF THE FISH AND GAME CODE, NO WORK SHALL BE STARTED ON THE DIVERSION WORKS AND NO WATER SHALL BE DIVERTED UNTIL PERMITTEE HAS ENTERED INTO A STREAM OR LAKE ALTERATION AGREEMENT WITH THE DEPARTMENT OF FISH AND GAME AND/OR THE DEPARTMENT HAS DETERMINED THAT MEASURES TO PROTECT FISHLIFE HAVE BEEN INCORPORATED INTO THE PLANS FOR CONSTRUCTION OF SUCH DIVERSION WORKS. CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF ANY REQUIRED FACILITY IS THE RESPONSIBILITY OF PERMITTEE. (0000063)

16. FOR THE PROTECTION OF FISH AND WILDLIFE, PERMITTEE SHALL DURING THE PERIOD:
(A) FROM NOVEMBER 1 THROUGH NOVEMBER 14 BYPASS A MINIMUM OF 1.0 CUBIC FOOT PER SECOND;
(B) FROM NOVEMBER 15 THROUGH FEBRUARY 29 BYPASS A MINIMUM OF 15.0 CUBIC FEET PER SECOND;
AND (C) FROM MARCH 1 THROUGH MAY 15 BYPASS A MINIMUM OF 10.0 CUBIC FEET PER SECOND.
THE TOTAL STREAMFLOW SHALL BE BYPASSED WHENEVER IT IS LESS THAN THE DESIGNATED AMOUNT FOR THAT PERIOD. STREAMFLOWS SHALL BE MEASURED AT THE NEAREST U.S.G.S. GAGING STATION ON THE RIVER OR AS MEASURED BY A DEVICE ACCEPTABLE TO THE BOARD AT ALTERNATIVE LOCATIONS WHICH MAY BE DESIGNATED BY THE WATERMASTER ADMINISTERING THE WATER DISTRIBUTION PROGRAM. (0140060)

17. DIVERSION OF WATER BETWEEN MARCH 15 AND MAY 15 SHALL BE SUBJECT TO CONTROL UNDER A WATER DISTRIBUTION PROGRAM ADMINISTERED BY THE STATE WATER RESOURCES CONTROL BOARD OR BY THE DEPARTMENT OF WATER RESOURCES AT ANY TIME SUCH A PROGRAM IS IN EFFECT AT THE PROJECT LOCATION.

- A. DIVERSION AFTER MARCH 15 IS CONTINGENT UPON PARTICIPATION IN THE WATER DISTRIBUTION PROGRAM BY THE PERMITTEE.
- B. NO DIVERSION IS ALLOWED AFTER MARCH 15, EXCEPT TO REPLENISH WATER STORED PRIOR TO MARCH 15, UNLESS OTHERWISE AUTHORIZED BY THE WATERMASTER IN CHARGE OF THE DISTRIBUTION PROGRAM.
- C. PRIOR TO MAKING DIVERSIONS AFTER MARCH 15, PERMITTEE SHALL INSTALL AND MAINTAIN A DEVICE, SATISFACTORY TO THE WATERMASTER, WHICH IS CAPABLE OF MEASURING THE INSTANTANEOUS RATE OF DIVERSION AND THE ACCUMULATIVE AMOUNT OF WATER DIVERTED DURING PARTICIPATION IN THE DISTRIBUTION PROGRAM.
- D. PERMITTEE'S PARTICIPATION IN ANY WATER DISTRIBUTION PROGRAM REQUIRED UNDER THE TERMS OF THIS PERMIT SHALL BE EVIDENCED BY RETURNING THE INFORMATION SHEET DISTRIBUTED PRIOR TO THE FROST SEASON AND PAYING COSTS AS APPORTIONED AT THE END OF THE SEASON.
- E. THE WATER DISTRIBUTION PROGRAM REQUIRED UNDER THIS PERMIT MAY BE REVISED PERIODICALLY BY THE BOARD PROVIDED THAT THE PROGRAM SHALL BE SUBSTANTIALLY CONSISTENT WITH TERMS OF ANY WATER DISTRIBUTION PROGRAM IMPOSED ON SIMILARLY SITUATED USERS BY THE NAPA COUNTY SUPERIOR COURT.

(0000085)

18. THE ARCHEOLOGICAL SITE IDENTIFIED AS CA-NAP 1 IN THE CULTURAL RESOURCE REPORT FOR APPLICATION 25485 WILL NOT BE IMPACTED BY ANY OF THE DEVELOPMENTS RELATED TO THE PROPOSED WATER USE AND DISTRIBUTION. THE SITE SHALL EITHER BE EXCLUDED FROM THE AREA OF USE PROPOSED IN APPLICATION 25485 OR, IF INCLUDED, THE SITE SHALL BE MITIGATED AS DESCRIBED IN PARAGRAPH 10 OF THE CULTURAL REPORT FOR SUBJECT APPLICATION. THE APPLICANT SHALL NOTIFY THE STATE WATER RESOURCES CONTROL BOARD PRIOR TO ANY WATER SYSTEM DEVELOPMENT.

(0380500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

JUNE 11 1981

Dated:

STATE WATER RESOURCES CONTROL BOARD

Raymond H. Hersh
CHIEF, DIVISION OF WATER RIGHTS

P18289A

3-9-83 Name chgd to Heublein, Inc. dba
Beaulieu Vineyard

4-8-86 Name chgd to Beaulieu Vineyard

7-3-92 asgd to Heublein, Inc. B.O. 7

3-17-93 asgd to Oakville Winery acquisition group